

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

JOSE MORENO, et al.,

Plaintiffs,

v.

CANYON SPRINGS ENTERPRISES,  
et al.,

Defendants.

No. C 04-4772 PJH

**ORDER RE MAGISTRATE JUDGE'S  
REPORT AND RECOMMENDATION**

The court has reviewed Magistrate Judge Zimmerman's Report and Recommendation Re: Entry of Default Judgment. Plaintiffs have filed objections to the report and recommendation, solely on the issue of the recommendation as to defendant Richard Hamilton.

As to defendant Canyon Springs, the court finds the Report correct, well-reasoned and thorough, and adopts it in every respect. Accordingly, as to defendant Canyon Springs, the motion is GRANTED.

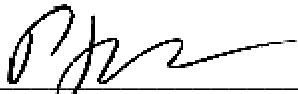
As to defendant Hamilton, the Magistrate Judge recommended denial of the motion for default judgment because plaintiffs had not shown that Hamilton was not an infant, incompetent, or a person in military service. Plaintiffs have filed a motion for reconsideration and submit supplemental evidence on the issue. The court construes plaintiffs' motion for reconsideration as an objection to the report and recommendation pursuant to Fed. R. Civ. P. 72(b) and 28 U.S.C. § 636(b)(1)(B), and as a motion for de novo determination and expansion of the record. See Civ. L. R. 72-3. The court GRANTS the motion for de novo determination and expansion of the record.

1 In reviewing the supplemental declaration of James Watson, it is clear that Hamilton is  
2 neither an infant, incompetent, or a person in military service. Accordingly, the court declines  
3 to adopt Magistrate Judge Zimmerman's report and recommendation on this issue, and  
4 instead GRANTS the motion for default judgment as to defendant Hamilton.

5 Judgment is entered in plaintiffs' favor and against defendants Canyon Springs and  
6 Hamilton for \$22,202.30, which includes: \$9,288.28 in unpaid contributions, \$6,869.22 in  
7 interest on unpaid contributions; \$2,850.00 in liquidated damages; \$2,812.50 in attorneys'  
8 fees, and \$381.90 in costs. Canyon Springs is further ordered to submit to an audit under the  
9 conditions expressed in the Laborers' Master Agreement.

10 IT IS SO ORDERED.

11 Dated: August 15, 2005

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PHYLLIS J. HAMILTON  
United States District Judge

15 cc: Wings, Assigned M/J,  
16 counsel of record  
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